



BILLING CODE: 6750-01-S

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on its proposal to extend for three years the current PRA clearance for information collection requirements pertaining to the Commission's administrative activities. That clearance expires on April 30, 2018, and consists of:

(a) applications to the Commission, including applications and notices contained in the Commission's Rules of Practice (primarily Parts I, II, and IV); (b) the FTC's consumer complaint systems; and (c) the FTC's program evaluation activities.

DATES: Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the SUPPLEMENTARY INFORMATION section below. Write "Paperwork Reduction Act: FTC File No. P072108" on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/adminactivitiespra> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or

deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For purposes specific to this *Federal Register* Notice: (a) Applications to the Commission: Gary Greenfield (Office of the General Counsel), 202-326-2753; (b) Complaint Systems: Nicholas Mastrocinque (Nick M.) and Ami Dziekan (Ami D.) (Bureau of Consumer Protection); Nick M., 202- 326–3188 and Ami D., 202- 326–2648; and (c) Program Evaluations: Jennifer Lee (Divestiture Orders), 202-326-2246; Katherine Ambrogi (Review of Competition Advocacy Program), 202-326-2205.

SUPPLEMENTARY INFORMATION:

Proposed Information Collection Activities

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require. “Collection of information” means agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing PRA clearance for the information collection requirements pertaining to the Commission’s administrative activities (OMB Control Number 3084-0047).

The FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and

assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond.

Estimated annual hours burden: 1,167,181 hours (110 + 1,166,994 + 72 + 5)

Estimated annual labor cost: \$25,240 (\$14,300 + \$0 + \$10,440 + \$500)

Estimated annual non-labor/capital cost: \$0

(a) Applications to the Commission, including applications and notices supported pursuant to the Commission's Rules of Practice: 110 hours

Most applications to the Commission generally fall within the “law enforcement” exception to the PRA and are mostly found in Part III (Rules of Practice for Adjudicative Proceedings) of the Commission’s Rules of Practice. *See* 16 CFR 3.1 - 3.83. Nonetheless, there are various applications and notices to the Commission contained in other rules (generally in Parts I, II, and IV of the Commission’s Rule of Practice). For example, based on an averaging of results in recent years, staff estimates that the FTC annually receives approximately 30 requests for clearance submitted by former FTC employees in order to participate in certain matters and screening affidavits submitted by partners or legal or business associates of former employees pursuant to Rule 4.1, 16 CFR 4.1. There are also procedures set out in Rule 4.11(e) for agency review of outside requests for Commission employee testimony, through compulsory process or otherwise, in cases or matters to which the agency is not a party. Rule 4.11(e) requires that a person who seeks such testimony submit a statement in support of the request. Staff estimates that agency personnel receive approximately 15 requests per year. Cumulatively, the above, along with various sundry additional requests of sporadic nature for which the Commission also specifies particular information required of the applicant or requester, amount to about 55

applications or notices per year. Staff estimates each respondent will incur, on average, approximately 2 hours of burden to submit an application or notice, resulting in a cumulative 110 burden hours per year (55 applications or notices x 2 burden hours).

Annual labor cost burden:

Using the burden hours estimated above, staff estimates that the total annual labor cost, based on an estimated average of \$130/hour for executives' and attorneys' wages, would be approximately \$14,300 (110 hours x \$130).¹ There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

(b) Complaint Systems: 1,166,994 annual hours

Consumer Response Center

Consumers can submit complaints about fraud and other practices to the FTC's Consumer Response Center (CRC) by telephone or through the FTC's website. Telephone complaints and inquiries to the FTC are answered both by FTC staff and contractors. These telephone counselors ask for the same information that consumers would enter on the applicable forms available on the FTC's website. For telephone inquiries and complaints, the FTC staff estimates that it takes 6.1 minutes per call to gather information, and an estimated 4.8 minutes for consumers to enter a complaint online. The burden estimate conservatively assumes that all of the phone call is devoted to collecting information from consumers, although frequently telephone counselors devote a small portion of the call to providing requested information to consumers.

¹ Figures based on national median salaries, including bonuses and benefits, divided by a 2,080 hour work year (52

Complaints Concerning the National Do Not Call Registry

To receive complaints from consumers of possible violations of the rules governing the National Do Not Call Registry, 16 CFR 310.4(b), the FTC maintains both an online form and a toll free hotline with automated voice response system. Consumer complainants must provide the phone number that was called, whether the call was prerecorded, and the date and time of the call. They may also provide either the name or telephone number of the company about which they are complaining, their name and address so they can be contacted for additional information, as well as for a brief comment regarding their complaint. In addition, complainants have the option of answering three yes-or-no questions to help law enforcement investigating complaints. The FTC staff estimates that the time required of consumer complainants is 3.0 minutes for phone complaints and 2.5 minutes for online complaints.

Identity Theft

To handle complaints about identity theft, the FTC must obtain more detailed information than is required of other complainants. Identity theft complaints generally require more information (such as a description of actions complainants have taken with credit bureaus, companies, and law enforcement, and the identification of multiple suspects) than general consumer complaints and fraud complaints.² Moreover, since January 2016, with the rollout of enhanced features within the FTC's IdentityTheft.gov website, consumers can create a personal

weeks x 40 hours/week), for a "Managing Attorney (\$145," "Attorney II," "Attorney III," "Attorney IV," and Attorney V" at www.salary.com.

² The FTC received a mandate from a presidential executive order entitled "Improving the security of Consumer Financial Transactions" on October 17, 2014 to create a complete service and complaint form for Identity Theft victims.

recovery plan and review various steps to implement it. For those that do, FTC staff estimates, based on contractor-provided information, that consumers will need 15 minutes, on average, to complete the complaint form, create an IdentityTheft.gov account, and to review their personalized recovery plan. For those that do not, and based on contractor-provided information, FTC staff estimates that consumers will need 8.5 minutes, on average, to complete the online complaint form.³

For consumers who call the CRC with an identity theft complaint, staff estimates that it will take 6 minutes per call to obtain identity theft-related information. A substantial portion of identity theft-related calls typically consists of counseling consumers on other steps they should consider taking to obtain relief (which may include directing consumers to a revised online complaint form). The time needed for counseling is excluded from the estimate.

CRC Surveys

Consumer customer satisfaction surveys give the agency information about the overall effectiveness and timeliness of the CRC. Subsets of consumers contacted throughout the year are questioned about specific aspects of CRC customer service. Each consumer surveyed is asked several questions chosen from a list prepared by staff. The questions are designed to elicit information from consumers about the overall effectiveness of the call center and online complaint intake. For the online survey, half of the questions ask consumers to rate CRC performance on a scale or require a yes-or-no response. The second half of the online survey

³ According to system-generated results, 84% of complainants using IdentityTheft.gov opt to create a personalized recovery plan. By extension, 16% do not. These apportionments inform the associated population figures that appear in the table below regarding identity theft complaints online.

asks more open-ended questions seeking a short answer. In addition, the CRC may survey a sample of consumers immediately after they file their complaints regarding the services they received. Staff estimates that each respondent will require 4.3 minutes to answer the questions during the phone survey and about 3.1 minutes for the online survey (approximately 20-30 seconds per question).

In addition, the FTC currently uses ForeSee, Inc. for online customer satisfaction surveys on www.ftccomplaintassistant.gov. It randomly selects consumers to take part in a brief survey to provide feedback about the Web site. Staff estimates the brief survey will require 6.5 minutes per respondent. This estimate and others relating to ForeSee surveys are included under “Misc. and fraud-related consumer complaints (Web chat)” in the table below.

Consumer Sentinel Network Survey

The FTC might conduct a brief survey of Consumer Sentinel Network satisfaction within the next three years. It will likely be an online survey with ten-minute duration. If so, estimated maximum burden would be 417 hours if every member completed it, given that the maximum possible Sentinel user base is 2,500 users.

What follows is a tabular presentation of staff’s estimates of burden for these various collections of information, including the surveys. The figures for the online forms and consumer hotlines are an average of annualized volume for the respective programs, including both current and projected volumes over the 3-year clearance period sought. The number of respondents for each activity has been rounded to the nearest thousand. The vast increase from the last estimate, 186,884 hours, to the current estimate, 1,166,994 hours, reflects strong consumer participation in

the agency's complaint collection process.⁴

Activity	#Respondents	#Minutes/Activity	Total Hours
Misc. and fraud-related consumer complaints (phone)	973,690	6.1	98,992
Misc. and fraud-related consumer complaints (online)	1,228,635	4.8	98,291
Misc. and fraud-related consumer complaints (Web chat)	175,926	6.5	19,058
Do-Not-Call related consumer complaints (phone)	1,795,155	3.0	89,758
Do-Not-Call related consumer complaints (online)	13,800,657	2.5	575,027
Identity theft complaints (phone)	1,183,533	6.0	118,353
Identity theft complaints (online) (those who create a personal recovery plan)	589,209	15.0	147,302
Identity theft complaints (online) (those who complete online form but do not create a personal recovery plan)	112,230	8.5	15,899
CRC Customer Satisfaction Questionnaire(phone)	20,084	4.3	1,439
CRC Customer Satisfaction Questionnaire (online)	47,572	3.1	2,458

⁴ The population estimates generally present marked increases from prior submissions for OMB clearance regarding information collected through these activities. While the FTC cannot definitively explain such pronounced increase in consumer visits to the FTC complaint site, the following are several possible factors: (1) a sharp rise in Do-Not-Call violations (by extension, an associated increase in consumer complaints); (2) increased media coverage regarding the Do-Not-Call and identity theft portals; and (3) expanded FTC outreach regarding its ftccomplaintassistant.gov website.

Consumer Sentinel Network Survey	2,500	10	417
Totals	19,929,191		1,166,994

Annual labor cost burden:

The cost per respondent should be negligible. Participation is voluntary and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

(c) Program Evaluations: 77 hours**Review of Divestiture Orders – 72 hours**

The Commission issues, on average, approximately 15 - 17 orders in merger cases per year that require divestitures or other remedies. As a result of a 1999 divestiture study and a more recent 2015 remedy study authorized by OMB and conducted by the staffs of the Bureau of Competition (BC) and the Bureau of Economics, as well as ongoing experience, BC monitors these required remedies by interviewing representatives of the Commission-approved buyers of the divested assets or other affected market participants within the first year after the divestiture is completed.

BC staff interviews representatives of the buyers to ask whether all assets required to be divested were, in fact, divested; whether the buyer has used the divested assets to enter the market of concern to the Commission and, if so, the extent to which the buyer is participating in the market; whether the divestiture met the buyer's expectations; and whether the buyer believes the divestiture has been successful. In a few cases, BC staff may also interview monitors, if appropriate. In cases in which a remedy other than a divestiture is required, staff will interview market participants such as competitors or customers to monitor the effectiveness of the remedy. In all these interviews, staff seeks to learn about pricing and other basic facts regarding competition in the markets of concern to the FTC.

Participation by the buyers or other market participants is voluntary. Each responding company designates the company representative most likely to have the necessary information; typically, a company executive and an attorney represent the company. Each interview takes less than one hour to complete. BC staff further estimates that it takes each participant no more than one hour to prepare for the interview. Staff conservatively estimates that, for each interview of the responding company, two individuals (a company executive and an attorney) will devote two hours (one hour preparing and one hour participating) each to responding to questions for a total of four hours. Interviews of monitors typically involve only the monitor and take approximately one hour to complete with no more than one hour to prepare for the interview. Assuming that staff evaluates approximately 17 divestitures per year during the three-year clearance period, the total hours burden for the responding companies will be approximately 68 hours per year (17 divestiture reviews x 4 hours for preparing and participating). Staff may include approximately 2 monitor interviews a year, which would add at most 4 hours (2 interviews x 2 hours for preparing and participating).

Annual labor cost burden:

Using the burden hours estimated above, staff estimates that the total annual labor cost, based on a conservative estimated average of \$145/hour for executives' and attorneys' wages, would be approximately \$10,440 (72 hours x \$145).⁵ There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

Review of Competition Advocacy Program – 5 hours

⁵ See *supra* note 1 (attorney salary source data for “Managing Attorney”).

The FTC's competition advocacy program draws on the Commission's expertise in competition and consumer protection matters to encourage state and federal legislators, agencies and regulatory officials, and courts to consider the effects of their decisions on competition and consumer welfare. The Commission and staff send approximately 20 letters to such decision makers annually regarding the likely effects of various bills and regulations.

In the past, the Office of Policy Planning ("OPP") has evaluated the effectiveness of these advocacy comments by surveying comment recipients and other relevant decision makers. OPP intends to continue this evaluation by sending a paper or electronic questionnaire to relevant parties within a year after sending an advocacy.

Most survey questions ask the respondent to agree or disagree with a statement concerning the advocacy comment that they received. Specifically, these questions ask about the consideration, content, influence, and public effect of our comments. The questionnaire also provides respondents with an opportunity to provide additional remarks regarding the comments they received, advocacy comments in general, and the outcome of the matter. These survey results are also included in the FTC's internal performance management indicators, and are used to guide the FTC's selection and prioritization of future competition advocacy opportunities.

OPP staff estimates that, on average, respondents will each require 15 minutes or less to complete the questionnaire. Thus, staff estimates a cumulative total of 5 burden hours per year (15 minutes of burden per respondent x 20 respondents per year). OPP staff does not intend to conduct any follow-up activities that would involve the respondents' participation.

Annual labor cost burden:

OPP staff estimates a conservative hourly labor cost of \$100 for the time of the survey participants (primarily state representatives and senators). Thus, staff estimates a total labor cost of \$25 for each response (15 minutes of burden at \$100 per hour). Assuming 20 respondents will complete the questionnaire on an annual basis, staff estimates cumulative yearly labor costs will approximate \$500. There are no capital, start-up, operation, maintenance, or other similar costs to respondents.

Request for Comments

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Write “Paperwork Reduction Act: FTC File No. P072108” on your comment. Your comment -- including your name and your state -- will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/adminactivitiespra> by following the instructions on the web-based form. When this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “Paperwork Reduction Act: FTC File No. P072108” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Website at <https://www.ftc.gov/>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c).

In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment from the FTC Website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

David C. Shonka,

Acting General Counsel.

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